

Memorandum

March 9, 2009

To: Senators
From: Harold
Subject: Expert Witnesses: Background and Suggested Questions

Tova Andrea Wang, democracy fellow at The Century Foundation, is vice president for research at Common Cause. She is a nationally known expert on election reform and works on other issues related to civil rights and liberties as well. She was the Executive Director of The Century Foundation's Post-2004 Election Reform Working Group, comprised of many of the most preeminent election law scholars in the country. In 2001, she was staff person to the National Commission on Federal Election Reform, co-chaired by former Presidents Carter and Ford, of which The Century Foundation was a co-sponsor. She is the author of several election reform reports, and wrote the widely remarked upon report on voter fraud and voter intimidation for the US Election Assistance Commission. Her commentary on election reform has appeared in the *New York Times*, *Washington Post*, *National Journal*, national *Associated Press* reports, *The Nation*, *Los Angeles Times*, *Newsday*, *New York Daily News*, *St. Louis Post Dispatch*, *Minneapolis Star Tribune*, *The American Prospect*, and *Campaigns and Elections*, among other media outlets. She has frequently appeared on national radio and television, including C-SPAN's *Washington Journal*, MSNBC, NBC, and NPR. She has spoken at number of national election reform conferences and forums, provided her expertise to members of Congress, and given expert testimony regarding the new federal election reform law before the New York State Assembly, the New York State Senate, the New York State Board of Elections and the New York City Council. twang@CommonCause.org (202) 736-5729 (office)

Dr. Toby Moore is an elections and voting researcher in Washington with the non-profit, nonpartisan research organization Research Triangle Institute (RTI International), where he designs and directs election research projects in the United States and abroad. He is currently directing technical assistance to the U.S. Election Assistance Commission in support of the EAC's 2008 Election Day Survey. Before joining RTI, he served as project manager for the Commission on Federal Election Reform at American University. From 2000 to 2006 he was the political geographer of the Voting Section of the Civil Rights Division, U.S. Department of Justice, where he served as redistricting expert and demographer. A geographer by training, he earned his B.A. from the University of North Carolina at Chapel Hill, his M.A. from the University of North Carolina at Charlotte, and his Ph.D. from the University of Iowa. Tobymoore@rti.org (o) 202-728-2085 (f) 202-728-2095 (c) 202-510-1320.

Daniel B. Kohrman is a Senior Attorney with the AARP Foundation in Washington, DC. Dan handles trial and appellate litigation in two major areas: *employment discrimination*; and *voting and government integrity*. Currently, Mr. Kohrman is one of the co-counsel for the plaintiffs in federal litigation challenging state "photo ID" voting laws in Georgia (*Common Cause Georgia v. Billups*) and Arizona (*Inter-Tribal Council of Arizona v. Brewer*). In the Georgia case, AARP

and its co-counsel twice succeeded in enjoining state law until the State Legislature acted to strengthen voter protections in the photo ID law. The Arizona case now is pending before the U.S. Court of Appeals for the Ninth Circuit.

Mr. Adam Skaggs, Brennan Center, works on a range of election administration and voting rights concerns, including the Center's efforts to reform the process of voter registration. Before joining the Brennan Center, he was a litigation associate at Paul, Weiss, Rifkind, Wharton & Garrison LLP. In 2003, Mr. Skaggs graduated summa cum laude with a J.D. from Brooklyn Law School, where he was a member of the Brooklyn Law Review. He subsequently clerked for Judge Stanley Marcus of the U.S. Court of Appeals for the Eleventh Circuit and Judge Edward Korman, Chief Judge of the U.S. District Court for the Eastern District of New York. Mr. Skaggs received an M.S. in Urban Affairs from Hunter College of the City University of New York, and holds a B.A., awarded with distinction, from Swarthmore College. Adam.skaggs@nyu.edu, 212-992-8976.

Chandler Davidson, Research Professor and Tsanoff Chair of Public Affairs Emeritus, taught at Rice from 1966 to 2003 and still occasionally teaches despite his emeritus status. He was a founding member of the Department of Sociology and served as departmental chair for fourteen years between 1979 and 2003. In the latter part of his career, he had a joint appointment with the Department of Political Science. Davidson has won five university-wide teaching prizes, including Rice's top award, the George R. Brown Excellence in Teaching Prize. In addition to many articles appearing in academic journals and popular magazines, he has written or edited a number of books. In the early 1990s he and Professor Bernard Grofman of the University of California at Irvine directed a major scholarly effort to assess the impact of the Voting Rights Act of 1965 in the South. Funded by the National Science Foundation and the Rockefeller Foundation, the project involved almost thirty political scientists, historians, sociologists, and voting rights lawyers. The resulting book, "Quiet Revolution in the South" (Princeton University Press, 1994), was co-edited by Davidson and Grofman and won the Richard Fenno Prize awarded by the American Political Science Association for the best book published on legislative behavior that year. Davidson's work on voting rights has been cited several times in U.S. Supreme Court opinions. He is also continuing research on minority voting rights. In 2005-06 Davidson was asked to serve on the National Commission on the Voting Rights Act as Congress prepared to consider reauthorizing the non-permanent provisions of the Act. In that capacity he was the primary drafter of the Commission's 2006 report, Protecting Minority Voters. He was also invited that year to testify before the U.S. Senate Judiciary regarding the Act's reauthorization. Along with three historians, he is currently writing a book on the suppression of minority voters as a result of "ballot security" programs. (703) 669-0521 fed@rice.edu

Gary L. Bledsoe, President of the Texas NAACP, graduated from the University of Texas at Austin with honors in 1973 and in 1976 from the University of Texas Law School. Attorney Bledsoe has spent his professional career in law working as an Assistant City Attorney from 1976-79, Assistant Attorney General from 1979 to 1994. Then, after, he worked in private practice and also as an instructor at St. Mary's University Law School. In 1993 he was a Fellow at the University of Texas Law School Center of Public Policy Dispute Resolution. Attorney Bledsoe opened the First Texas NAACP State Office in 1991. During his tenure Texas local branches have grown, developed and collectively become the most respected civil rights

organizations in Texas. He headed efforts to dismantle the Department of Public Safety's discriminatory promotion system, which led to the first African American and first woman Texas Rangers. Also he created the First Texas Corporate Diversity Partnership, an agreement with companies to increase their business with minorities, promote and hire minorities and provide scholarships and training for minorities. A former member of the U.S. Civil Rights Commission Texas Advisory Board, Attorney Bledsoe has received numerous awards, including the Attorney General of Texas Award for Lawyer of the Year for Prosecutor Assistance, the Austin Young Lawyer's Association Lawyer of the Year and the Arthur B. Dewitty Award for Contributions to Civil Rights in the Austin Area. 316 W. 12th St., Suite 307 Austin, TX 78701; 512-322-9992.

Dennis Borel is the Executive Director of the Coalition of Texans with Disabilities (CTD), Dennis is frequently called on for research, policy analysis and recommendations to the Texas Legislature and state agencies on issues surrounding disabilities. He serves on multiple advisory groups to state health and human services agencies and was appointed by Gov. Rick Perry to the State Independent Living Council and by HHSC Executive Commissioner Albert Hawkins to the Promoting Independence Advisory Council. He has successfully advocated for positive change in government policy and practice in employment, transportation, housing, health care and architectural barriers to promote the full inclusion of people with disabilities in community life. He was Project Director for CTD's history-making Team Everest expedition, an internationally-recognized expedition by a team of people with diverse disabilities to the world's tallest mountain. 512/478-3366. dborel@cotwd.org

J. Gerald Hebert is the Executive Director and Director of Litigation at the Campaign Legal center in Washington D.C. He joined the Legal Center in 2004. For the past fourteen years, Mr. Hebert has had an active federal court litigation practice specializing in redistricting and voting right issues and has worked on cases in more than two dozen states. Over the last three decades, he has served as legal counsel for parties and *amici curiae* in numerous redistricting lawsuits, including several cases decided in the Supreme Court. He served in the Department of Justice from 1973-1994 in many capacities, including Acting Chief, Deputy Chief, and Special Litigation Counsel in the Voting Section of the Civil Rights Division. From 1995 through 2007, Mr. Hebert also served as an Adjunct Professor of Law at Georgetown University Law Center where he taught election law and campaign finance regulation. ghebert@campaignlegalcenter.org 202-736-2200

Questions for Toby Moore (Research Triangle Institute)

Primary Senator asking questions: Van de Putte

Senator Gallegos to ask a question on urban DPS offices

Senator Uresti to ask questions on rural DPS offices

Q. Didn't former President Jimmy Carter advocate a photo ID for voters a few years ago as part of the Carter-Baker Commission? (*top priority question*)

Q. What evidence is there that those who lack a photo ID are more likely to be women?

Q. If you were to use the AU survey approach you described and apply it to TX, do you have some idea of how many voters in TX today lack a photo ID?

Q. In seeking approval of any photo ID bill from DOJ, who bears the burden of proving the effects of a photo ID? Do those claiming it is discriminatory bear the burden or does the State have to prove that a voter ID requirement does not have a discriminatory impact?

Q. So DOJ doesn't have to produce affirmative evidence of how the photo ID law will discriminate against minority voters to deny preclearance, right? So DOJ can block the photo ID bill from taking effect if they find that the State has failed to show that the law is free of a discriminatory purpose or effect, correct?

Q. What are the kinds of data that the State needs to produce about voter ID to get preclearance?

Q. So those data are needed to determine if the voter ID bill complies with the VRA, correct? If those data are not known by the State or have not been produced, then the State cannot show today that the voter ID bill meets the requirements of the VRA can it?

Q. Should the state be concerned about eligible but non-registered voters?

Q. How does the Texas bill differ from the Georgia and Indiana legislation?

Less important questions

Q. Do you have any estimates what it will cost a state like Texas to develop and implement a public education programs to make voters aware of the new voter ID requirements?

Q. Do you have any estimates what it will cost a state like Texas to develop and implement a revamped poll worker training course to emphasize the correct enforcement of the new, more complicated ID requirements?

Q. Do you have any estimates what it will cost a state like Texas to develop and implement programs to distribute the required IDs, free of charge, to those who do not have them?

Q: **(FROM GALLEGOS):** The data I have from the Texas Department of Public Safety shows that in my home city of Houston, for example, it is very inconvenient for somebody to get to a DPS office to obtain the required photo ID. [state some specifics from the data distributed last week, specific to urban DPS offices' locations]. My question is this: do you believe that a hardship such as the one I described will have a negative effect on protected minorities' ability to do what is required of them under this bill? (Gallegos can ask follow up questions if he wants, but that is the DoJ money question)

Q: **(FROM URESTI):** I have the largest Senate district in Texas by far. In fact my Senate district stretches from San Antonio to El Paso, and entails more land mass than some entire states. It is very rural, and the distances between many residents and the nearest town are great. (give 3 examples – Terlingua to Alpine being a great one) My question is, do you believe that the distances represented in what I just described, coupled with the limited hours many of those DPS offices in rural areas have, represents a negative effect on protected minorities' ability to do what is required of them under this bill? (Uresti can ask follow up questions if he wants)